

**HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996
(HIPAA)**

**Public Law 104-191
Enacted August 21, 1996**

**TITLE II—PREVENTING HEALTH CARE FRAUD AND ABUSE;
ADMINISTRATIVE SIMPLIFICATION**

Subtitle F—Administrative Simplification

GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS

Sec. 1176. [of the Social Security Act]

(a) **GENERAL PENALTY—**

- (1) **IN GENERAL—**Except as provided in subsection (b), the Secretary shall impose on any person who violates a provision of this part a penalty of not more than \$100 for each such violation, except that the total amount imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed \$25,000.
- (2) **PROCEDURES—**The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this subsection in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

(b) **LIMITATIONS—**

- (1) **OFFENSES OTHERWISE PUNISHABLE—**A penalty may not be imposed under subsection (a) with respect to an act if the act constitutes an offense punishable under section 1177.
- (2) **NONCOMPLIANCE NOT DISCOVERED—**A penalty may not be imposed under subsection (a) with respect to a provision of this part if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by 42 USC 1320d-5 exercising reasonable diligence would not have known, that such person violated the provision.
- (3) **FAILURES DUE TO REASONABLE CAUSE—**
 - (A) *In General*—Except as provided in subparagraph (B), a penalty may not be imposed under subsection (a) if—
 - (i) the failure to comply was due to reasonable cause and not to willful neglect; and
 - (ii) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.
 - (B) *Extension of Period*—
 - (i) **No Penalty**—The period referred to in subparagraph (A)(ii) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.
 - (ii) **Assistance**—If the Secretary determines that a person failed to comply because the person was unable to comply, the Secretary may provide technical assistance to the person during the period described in subparagraph (A)(ii). Such assistance shall be provided in any manner determined appropriate by the Secretary.
- (4) **REDUCTION—**In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under subsection (a) that is not entirely waived under paragraph (3) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

WRONGFUL DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

Sec. 1177. [of the Social Security Act]

(a) **OFFENSE—**A person who knowingly and in violation of this part—

- (1) uses or causes to be used a unique health identifier;
- (2) obtains individually identifiable health information relating to an individual; or
- (3) discloses individually identifiable health information to another person, shall be punished as provided in subsection (b).

(b) **PENALTIES—**A person described in subsection (a) shall—

- (1) be fined not more than \$50,000, imprisoned not more than 1 year, or both;
- (2) if the offense is committed under false pretenses, be fined not more than \$100,000, imprisoned not more than 5 years, or both; and
- (3) if the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, be fined not more than \$250,000, imprisoned not more than 10 years, or both.